

APPEAL NO. 020341  
FILED MARCH 18, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on January 11, 2002. The hearing officer determined that the respondent (claimant) sustained a compensable injury on \_\_\_\_\_; that she had disability resulting from the compensable injury, beginning on September 26, 2001, and continuing through the date of the CCH; that the appellant (carrier) is not relieved from liability under Section 409.002 because of any failure by the claimant to timely notify her employer of an injury pursuant to Section 409.001; that the carrier did not waive the right to contest compensability under Section 409.021; and that the carrier is liable for payment of benefits accrued prior to October 25, 2001, pursuant to Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 124.3 (Rule 124.3), as a result of the carrier's failure to dispute or initiate benefits within seven days of the date that the carrier received written notice of the injury. The carrier has appealed the adverse determinations on sufficiency of the evidence grounds. The claimant did not submit a response to the carrier's appeal.

DECISION

Affirmed.

The issues of injury, disability, timely notice, and liability for benefits under Rule 124.3 presented factual questions for the hearing officer to resolve. Section 410.165(a) provides that the hearing officer, as finder of fact, is the sole judge of the relevance and materiality of the evidence as well as the weight and credibility that is to be given the evidence. It was for the hearing officer, as trier of fact, to resolve the inconsistencies and conflicts in the evidence. Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ). This is equally true regarding medical evidence. Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). The trier of fact may believe all, part, or none of the testimony of any witness. Aetna Insurance Company v. English, 204 S.W.2d 850 (Tex. Civ. App.-Fort Worth 1947, no writ). We will reverse a factual determination of a hearing officer only if that determination is so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); Pool v. Ford Motor Company, 715 S.W.2d 629, 635 (Tex. 1986). Applying this standard of review to the record of this case, we decline to substitute our opinion of the credibility of the respective witnesses and of the evidence for that of the hearing officer.

We affirm the decision and order of the hearing officer.

The true corporate name of the insurance carrier is **ZURICH AMERICAN INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**GEORGE MICHAEL JONES  
9330 LBJ FREEWAY, SUITE 1200  
DALLAS, TEXAS 75243.**

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Michael B. McShane  
Appeals Judge

CONCUR:

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Chris Cowan  
Appeals Judge

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Robert W. Potts  
Appeals Judge